

UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OHIO

SAUDER MANUFACTURING  
COMPANY,

Plaintiff,

v

SOUTER, INC., d/b/a COVENANT  
CHURCH FURNITURE MANUFACTURING,

Defendant.

Case No.

Hon.

**COMPLAINT AND**  
**DEMAND FOR JURY TRIAL**

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**COMPLAINT**

Plaintiff, Sauder Manufacturing Company ("Sauder"), by and through its attorneys,  
Varnum LLP, states for its Complaint as follows:

**PARTIES, JURISDICTION AND VENUE**

1. Sauder is a corporation organized and existing under the laws of the State of Ohio, with its principal place of business at 930 W. Barre Road, Archbold, Ohio.

2. Upon information and belief, Defendant Souter, Inc. d/b/a Covenant Church Furniture Manufacturing ("Covenant") is a corporation organized and existing under the laws of the State of Missouri, with its principal place of business at 1326 W. Liberty Avenue, Ozark, Missouri.

3. This action arises under the patent laws of the United States, Title 35 U.S. Code, and this Court has subject matter jurisdiction pursuant to 28 U.S.C. §1338(a) and otherwise. This Court also enjoys diversity jurisdiction, there being diversity of citizenship and the amount in controversy being in excess of \$75,000, exclusive of interest and costs.

4. Venue is proper under 28 U.S.C. §1400(b) because Defendant resides in this judicial district by virtue of doing business in this district on a continuous and systematic basis.

**GENERAL ALLEGATIONS**

5. Sauder is America's leading producer of wood church furniture, including pews, chairs, platform furniture, and theatre/auditorium seating.

6. Upon information and belief, Covenant also manufactures wood church furniture, which it offers for sale through its web site, [www.covenantchurchfurniture.com](http://www.covenantchurchfurniture.com).

7. Included among the products offered for sale on Covenant's website are certain pews with defined seating and removable cushions.

8. United States Patent No. 5,890,761 entitled "Pew Having Discrete Seating Portions" was issued to Virgil Miller on April 6, 1999. A true and accurate copy of United States Patent No. 5,890,761 is attached hereto and incorporated herein as **Exhibit A**.

9. Sauder is the assignee of all right, title and interest in U.S. Patent No. 5,890,761 and has the right to sue under U.S. Patent No. 5,890,761, including the right to sue for all past infringement.

10. This patent covers pews with defined seating and removable cushions like those for sale on Covenant's website.

**COUNT I**

**PATENT INFRINGEMENT - U.S. PATENT NO. 5,890,761**

11. Sauder realleges and incorporates by reference paragraphs 1 through 10 as if herein fully written.

12. Sauder is the valid assignee of all right, title and interest in United States Patent No. 5,890,761 entitled "Pew Having Discrete Seating Portions." Those rights include the right to sue for infringement of the patent, including past infringement.

13. Upon information and belief, Defendant Covenant has infringed and is infringing one or more claims of U.S. Patent No. 5,890,761 by making, selling, distributing and/or using seating products embodying the patented invention, and will continue to do so unless enjoined by this Court.

14. Sauder has given written notice to Covenant of Covenant's infringement.

15. Covenant's acts of infringement are willful and in wanton disregard of Sauder's rights accorded by U.S. Patent No. 5,890,761.

WHEREFORE, Sauder requests the following relief:

(A) A preliminary and permanent injunction against Covenant's continued infringement of U.S. Patent No. 5,890,761;

(B) An accounting for and an award of damages;

(C) A trebling of damages due to the knowing, willful and wanton nature of Covenant's conduct;

(D) An award of Sauder's attorneys' fees and costs in this action under any and all applicable statutes;

(E) An award of prejudgment interest to the extent permitted by applicable law; and

(F) Such other and further relief as the Court deems equitable under the circumstances.

**DEMAND FOR JURY TRIAL**

Sauder demands a trial by jury as to all issues so triable in this case.

Respectfully submitted,

VARNUM LLP  
Attorneys for Plaintiff

Dated: October 7, 2009

By: 

Timothy E. Eagle (Ohio Bar No. 0037972)

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